

### Subpart C—Requirements for Vessel Owners

#### § 356.13 Information required to be submitted by vessel owners.

(a) In order to be eligible to document a Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel with a fishery endorsement, the entity that owns the vessel must submit documentation to demonstrate that 75 percent (75%) of the interest in such entity is owned and controlled by Citizens of the United States. Unless otherwise exempted, the following documents must be submitted to the Citizenship Approval Officer in support of a request for a determination of U.S. Citizenship:

(1) An Affidavit of U.S. Citizenship. This affidavit, set out in § 356.15, must contain all required facts, at all tiers of ownership, needed for determining the citizenship of the owner of the Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel.

(2) A certified copy of the Articles of Incorporation and Bylaws of the owner of the Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel, and any parent corporation, must be submitted. The certification must be by the Secretary of State in which the corporation is incorporated or by the Secretary of the corporation. For entities other than corporations, comparable certified documents must be submitted. For example, for a limited liability company, a copy of the Certificate of Formation filed with a State must be submitted, along with a certified copy of the Limited Liability Company Operating Agreement;

(3) An Affidavit of U.S. Citizenship for each charterer of a Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel, with the exception of time or voyage charterers of Fish Processing Vessels and Fish Tender Vessels permitted under § 356.39(b)(2);

(4) A copy of any time charter or voyage charter to a Non-Citizen of a Fish Tender Vessel or Fish Processing Vessel;

(5) Any loan agreements or other financing documents applicable to a Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel where the lender has not been approved by MARAD as a U.S. Citizen, excepting standard loan agreements from Non-Citizen Lenders where the Non-Citizen Lender has been granted approval from the Citizenship Approval Officer pursuant to § 356.21 to enter into such loans without transactional approval from MARAD;

(6) A description of any operating and/or management agreements entered into between the owner or bareboat charterer of a Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel

and an entity that has not been determined by MARAD to be a U.S. Citizen, accompanied by a representation and warranty that the agreement does not contain any provisions that convey control over the vessel or vessel-owning entity to a Non-Citizen;

(7) Copies of any sales or purchase agreements that relate to the sale or purchase of all or a significant portion of a vessel's catch where the agreement is with an entity that has not been determined by MARAD to be a U.S. Citizen and the agreement contains provisions that could convey control to a Non-Citizen other than those expressly authorized in § 356.43. Agreements that only contain provisions expressly authorized in § 356.43 do not have to be submitted; however, the agreements and the parties to the agreements must be identified;

(8) Any stockholder's agreement, voting trust agreements, or any other pooling agreements, including any proxy appointment, relating to the ownership of all classes of stock, whether voting or non-voting of the owner of the Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel, including any parent corporation or other stockholder whose stock is being relied upon to establish 75 percent U.S. Citizen ownership;

(9) Any agreements relating to an option to buy or sell stock or other comparable equity interest in the owner of the Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel, or any agreement that restricts the sale of such stock or equity interests in the owner of the Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel, including any parent corporation or other stockholder whose stock is being relied upon to establish 75 percent U.S. Citizen ownership;

(10) Any documents relating to a merger, consolidation, liquidation or dissolution of the owner of the Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel, including any parent corporation where all of the parties have not been determined by the Citizenship Approval Officer to be U.S. Citizens;

(11) Disclosure of any interlocking directors or other officials by and between the owner of a Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel (including any parent corporation) and any Non-Citizen minority stockholder of the owner and any parent corporation. This requirement is also applicable to any lender, purchaser of fish catch, or other entity that is a Non-Citizen; and

(12) Any contract or agreement that purports to sell, lease or otherwise

transfer to a Non-Citizen the fishing rights, a fishing quota, a processing quota or any other right allocated to a vessel owner, bareboat charterer, or a particular Fishing Vessel, Fish Processing Vessel or Fish Tender Vessel.

(b) In the event the owner or bareboat charterer of a Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel enters into any agreement reflected in any of the documents set forth in paragraph (a) of this section after the submission of the Affidavit of U.S. Citizenship, the owner or bareboat charterer must notify the Citizenship Approval Officer within 30 calendar days. Failure to notify the Citizenship Approval Officer of such agreements within the prescribed time may result in the vessel owner being deemed ineligible to document the vessel with a fishery endorsement.

#### § 356.15 Filing of affidavit of U.S. Citizenship.

(a) Prior to June 1, 2001, the owner of a Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel may request a letter ruling from the Citizenship Approval Officer that the owner is a U.S. Citizen eligible to own a vessel with a fishery endorsement. The owner must submit to the Citizenship Approval Officer a request for a letter ruling that includes an Affidavit of U.S. Citizenship and all other documentation required by § 356.13. The Citizenship Approval Officer will issue a letter ruling within 120 calendar days of receiving all applicable documents.

(b) An owner that receives a letter ruling pursuant to paragraph (a) of this section must submit a certification that the information contained in the Affidavit of U.S. Citizenship and in documents submitted in support of the request for a letter ruling remains true and accurate. The certification must be submitted no earlier than September 10, 2001 and no later than September 20, 2001. If changes in the information have occurred between the time of the request for the letter ruling and the time of the certification, the owner must notify the Citizenship Approval Officer of those changes as required by § 356.5 and § 356.17. The owner is still required to inform the Citizenship Approval Officer of any changes as they occur as required by § 356.17 and not merely at the time of the certification.

(c) An owner of a Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel that does not request a letter ruling prior to June 1, 2001, and who wishes to be eligible to obtain a fishery endorsement on a Fishing Vessel, Fish Processing Vessel, or Fish Tender Vessel on October 1, 2001, must submit the